IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26777 of 2007(K)

PETITIONER:

KERALA TOURISM DEVELOPMENT CORPORATION LTD.,
REP. BY ITS MANAGING DIRECTOR,
TRIVANDRUM.

BY ADV. SRI.B.GOPAKUMAR

RESPONDENTS:

1. EMPLOYEES PROVIDENT FUND ORGANIZATION,
REGIONAL OFFICER, REP. BY REGIONAL
PROVIDENT FUND COMMISSIONER, TRIVANDRUM.

2. ASST. PROVIDENT FUND COMMISSIONER, EMPLOYEES
PROVIDENT FUND ORGANIZATION, REGIONAL OFFICE,
THIRUVANANTHAPURAM.

3. M/S.SAFE SECURITY SERVICES, MANJALIKULAM,
REP. BY BIJU.I.S., 'SAFE' TRA-42,
TC 25/2132, THAMPANOOR, TRIVANDRUM.

BY SMT.T.N.GIRIJA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 7.9.2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.26777 of 2007

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Dated this the 7th day of September, 2007

J U D G M E N T

Against Ext.P5 order under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, assessing contributions under the Act, the petitioner has filed Ext.P7 application for review as provided under Section 7B of the Act. Petitioner's complaint is that although Ext.P7 has been filed within the time prescribed under the Act, the 2nd respondent is initiating coercive proceedings for recovery of the disputed amount. The petitioner therefore, seeks the following reliefs:

> "i. a writ of certiorari or any other appropriate writ direction or order quashing not only Ext.P3 in total, but also Ext.P5 to the extent to which it affects the petitioner, or costs liability on it, as illegal and void.
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> ii. a writ of mandamus or any other appropriate writ direction or order directing the due consideration and disposal of Ext.P7 by the 1st respondent, and serve a copy of the proceedings or orders issued thereon to the petitioner, and keep in abeyance all coercive proceedings threatened in Ext.P5 till final orders are issued on Ext.P7."

2. I have heard the learned Standing Counsel appearing

for the Provident Fund Organization also.

3. When a party files an application under Section 7B of the Act, which is a statutory remedy provided under the Act, the 2nd respondent has a statutory duty to consider the same and pass appropriate orders thereon. However, I find that Ext.P7 is addressed to the Regional Provident Fund Commissioner, Trivandrum. In so far as Ext.P5 has been passed by the 2nd respondent, the review would also lie before him only. In the above circumstances, I dispose of this writ petition as follows:

The Regional Provident Fund Commissioner, Trivandrum shall forward Ext.P7 to the 2nd respondent. The 2nd respondent shall consider and pass orders as expeditiously as possible. Needless to say, that shall only be after affording an opportunity of being heard to the petitioner. Till final orders are communicated to the petitioner on Ext.P7, further coercive proceedings pursuant to Ext.P5 shall be kept in abeyance.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.